

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:14-CV-36-FL

RETIREMENT COMMITTEE OF DAK
AMERICAS LLC, as Plan Administrator
of the DAK Americas LLC Pension Plan;
and TRANSAMERICA RETIREMENT
SOLUTIONS CORPORATION,

Plaintiffs,

v.

ORDER

DAVID W. ALLEN, MICHAEL LYNN
BASS, JOSEPH ALEXANDER
BELLAMY, MARK STEPHEN
BREWER, JEROME BRYANT,
HAROLD E. CORBETT, KELVIN L.
GALLOWAY, WARREN ALBERT
GARRISON, JAMES F. HOLLAND,
WILLIAM LACEY NELSON, SIDNEY
HUGH RHODES, JIMMIE RAY
SELLERS, MENDELL W. SMITH,
RODNEY B. SMITH, and OTELLA
IRENE WEBB,

Defendants.

This matter comes before the court on plaintiffs' motion to dismiss (DE 70), pursuant to Federal Rule of Civil Procedure 12(b)(6), the counterclaim filed by defendants Jerome Bryant, Mendell W. Smith, and Otella Irene Webb, filed May 2, 2014 (DE 57). Said defendants subsequently filed an amended counterclaim, and plaintiffs filed an answer to the amended counterclaim on July 17, 2014. Thereafter, said defendants filed a second amended counterclaim on September 4, 2014, and plaintiffs filed a motion to dismiss the second amended counterclaim on September 18, 2014 (DE 103), which motion remains pending. Accordingly, the court DISMISSES

AS MOOT plaintiffs' motion (DE 70) to dismiss the original counterclaim by defendants Jerome Bryant, Mendell W. Smith, and Otella Irene Webb.

SO ORDERED, this the 17th day of March, 2015.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. The first name "Louise" is written with a large, ornate capital "L". The middle initial "W." is written in a smaller, simpler script. The last name "Flanagan" is written with a capital "F" and a trailing flourish.

LOUISE W. FLANAGAN
United States District Judge